



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Refer to NOAA Fisheries No.:
2003/01665

September 30, 2004

Lawrence C. Evans
Chief, Regulatory Branch
Department of the Army Corps of Engineers
Portland District
Post Office Box 2946
Portland, Oregon 97208-2946

Re: Amendment to the Endangered Species Act Section 7 Formal Conference Opinion on the
LTM, Inc. Instream Sand and Gravel Mining Project, Umpqua River, Douglas County,
Oregon (Corps No. 200200828)

Dear Mr. Evans:

On August 6, 2004, NOAA's National Marine Fisheries Service (NOAA Fisheries) transmitted to you our conference opinion (Opinion) 'Endangered Species Act Section 7 Consultation Conference Opinion on the LTM, Inc. Instream Sand and Gravel Mining Project' (NOAA Fisheries No.: 2003/01665). Since then, staff of NOAA Fisheries have become aware of several errors in term and condition #4 (operation of dredge, barge, and product processing facilities) as it relates to turbidity monitoring. These were simple drafting errors caused by insertion of the wrong text during preparation of the final document and are unrelated to any data, analysis, or conclusion presented in the Opinion.

This letter to correct those errors is intended to ensure that the requirements for turbidity monitoring will be appropriate, understandable, aligned with state turbidity monitoring requirements, and consistent with previous consultation discussions. Accordingly, NOAA Fisheries believes that rewording of term and condition #4 as follows is warranted. Deletions are shown as a ~~strikeout~~; insertions are shown with a double underline.

All other terms and conditions of the August 6, 2004, incidental take statement are unchanged. A copy of this letter will be posted with the June 14, 2002, Opinion on NOAA Fisheries' website.



4. To implement reasonable and prudent measure #4 (operation of dredge, barge, and product processing facilities), the Corps shall ensure that the clamshell dredge, rock product barges, and onshore processing facilities will be operated as follows:
- a. Turbidity levels. Turbidity will not be increased at any point in the water column by more than 10% over background conditions 150 feet from the barge during two consecutive monitoring periods. If this level of turbidity cannot be met before February 28, 2005, the applicant must implement additional turbidity limiting practices to meet the following incremental targets:
 - August 1- September 30 2004- 5 NTU's over background
 - November 1- December 31, 2004- 4 NTU's over background
 - January 1- February 28, 2005- 3 NTU's over background
 - i. If turbidity exceeds the prescribed amount above, the applicant may continue operations until the next scheduled monitoring time.
 - ii. If at the next monitoring time turbidity exceeds the amount prescribed above, all operations must cease for the day.
 - b. Turbidity monitoring plan. The following actions must be employed each day gravel extraction occurs in any capacity:
 - i. Prior to commencement of daily operations, one background measurement must be taken anywhere within 150 feet of the barge and recorded along with the tidal stage at that time each day.
 - ii. One background measurement must be taken every 4 hours. This measurement must be taken outside of any visible plume, 150 feet or more from the barge.
 - iii. Turbidity compliance sampling every 4 hours. If the high and/or low tides are within one hour of this standard 4 hour compliance interval, the timing may be modified to capture the high/low tide events.
 - iv. If a visible turbidity plume exists, measurements must be taken at the centerline of the visible plume 150 feet from the barge. If a visible turbidity plume does not exist, measurements must be taken 150 feet from the barge in the direction of primary stream flow.
 - v. If a visible turbidity plume exists and the turbidity at 150 feet exceeds the level identified in Section 4a above, measure the distance from the barge to where the turbidity plume does not exceed the level.
 - vi. Measurements must be taken at 3 depths at each monitoring site: 1 meter from the bottom of the river, mid-depth, and 1 meter from the surface.
 - c. Turbidity reports. All monitoring actions must be recorded in a monitoring log and submitted to NOAA Fisheries.
 - i. The applicant must submit all turbidity monitoring information by the following dates to NOAA Fisheries: October 13, 2004, January 12, 2005, March 9, 2005, and March 9 of every proceeding year.
 - ii. These reports must provide the monitoring information from preceding operation periods and must include: daily times and locations of samples taken with relevant tidal information, background levels, turbidity

measurements, and if work ceased due to turbidity exceedences, and sizes (with distances) of any visible turbidity plumes.

d. Pollution and erosion control plan. Prepare and carry out a pollution and erosion control plan to prevent pollution caused by all operations. The plan must contain the elements listed below, and meet requirements of all applicable laws and regulations.

- i. The name and address of the party(s) responsible for accomplishment of the pollution and erosion control plan.
- ii. Practices to prevent erosion and sedimentation associated with barge and related shoreline operations, including access roads, stream crossings (if any), sand and gravel stockpile operations, construction sites, borrow pit operations, haul roads, equipment and material storage sites, fueling operations, staging areas, and roads being decommissioned.
- iii. Practices to confine, remove and dispose of sediments from any washout facilities.
- iv. A description of any regulated or hazardous products or materials that will be used for the project, including procedures for inventory, storage, handling, and monitoring.
- v. A spill containment and control plan with notification procedures, specific cleanup and disposal instructions for different products, quick response containment and cleanup measures that will be available on the site, proposed methods for disposal of spilled materials, and employee training for spill containment.
- vi. Practices to prevent materials or debris from dropping from the barge into any stream or waterbody.

~~_____ b. _____~~ The clamshell will be equipped with an enclosed bucket that closes tightly to reduce resuspension of sediment throughout the water column.

~~_____ c. _____~~ Do not increase ambient stream turbidity by more than 10% above background 100 feet below the discharge, when measured relative to a control point immediately upstream from the discharge

~~_____ d. _____~~

e. All related onshore operations, such as vehicle parking, administrative functions, fuel storage, settling facilities, and product stockpiles, and will be conducted 150 feet or more from ordinary high water, whenever feasible, to minimize degradation and destruction of riparian habitats.

We apologize for any inconvenience this oversight may have caused. If you have any questions regarding this Opinion, please contact Chuck Wheeler of my staff in the Southwest Oregon Habitat Branch of the Oregon State Habitat Branch at 541.957.3379.

Sincerely,

for Michael Dehar

D. Robert Lohn
Regional Administrator

cc: Teena Monical, USCOE
Yvonne Valette, USEPA
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